

# **EXHIBIT E**

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1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK  
2 -----X  
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3 VIACOM INTERNATIONAL, INC., a  
3 Delaware corporation,  
4  
4 Plaintiff, New York, N.Y.  
5  
5 v. 07 Civ. 9237(PKC)  
6  
6 SPECIAL PRODUCTIONS, INC., and  
7 MICHAEL DAVIDS, a/k/a "MICHAEL  
7 H. DEMOS,"  
8  
8 Defendants.  
9  
9 -----X

10  
10 January 11, 2008  
11 10:30 a.m.  
11  
12

13 Before:  
13  
14 HON. P. KEVIN CASTEL,  
14  
15 District Judge  
15  
16  
17

18 APPEARANCES  
18  
19 DAVIS WRIGHT TREMAINE LLP  
19 Attorneys for Plaintiff  
20 BY: MARCIA BETH PAUL  
20  
21  
21 DEBEVOISE & PLIMPTON LLP  
22 Attorneys for Plaintiff  
22 BY: CHRISTOPHER J. ROBINSON  
23  
24  
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1 (Case called)  
2 THE DEPUTY CLERK: Is counsel for the plaintiff ready?  
3 MS. PAUL: Yes, your Honor. Marcia Paul and  
4 Christopher Robinson, from Davis Wright Tremaine, for the  
5 plaintiff.  
6 THE COURT: Good to see you, Ms. Paul; and good to see  
7 you, Mr. Robinson.  
8 THE DEPUTY CLERK: No appearance for Special  
9 Productions, Incorporated or by Michael Davids.  
10 THE COURT: Ms. Paul, I have a recollection of our  
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11 last session in this case, but if you could bring me up to date  
12 and refresh my recollection just so I am sure that I have it  
13 accurately.

14 MS. PAUL: Certainly, your Honor.

15 We were last here on November 30. At that time  
16 Mr. Davids appeared personally. No attorney appeared for the  
17 corporation. Your Honor advised Mr. Davids that he could not  
18 represent the corporation. You ruled that he file a notice --  
19 have filed a notice of appearance for the corporation on or  
20 before December 29.

21 MR. ROBINSON: 28.

22 MS. PAUL: 28?

23 THE COURT: Do you have a copy of the transcript?

24 MR. ROBINSON: Yes.

25 MS. PAUL: Yes.

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1 THE COURT: If you don't mind handing it up. I  
2 appreciate it.

3 And if I could ask Mr. Robinson, if I can impose upon  
4 you, I am going to hand this back to you at the conclusion of  
5 the conference, but I will ask you to send a copy to chambers  
6 because I don't seem to have a copy in my files.

7 MS. PAUL: Your Honor, we did not receive notice --

8 THE COURT: Just back up now. Let me just see.

9 (Pause)

10 THE COURT: Let me see whether I have this straight.  
11 Mr. Davids is a defendant in this action. Special Productions,  
12 Inc., is a defendant in this action.

13 On November 30, 2007, Mr. Davids appeared, and I  
14 advised him that he had a right to represent himself, urged him  
15 to consider retaining a lawyer for himself, but that Special  
16 Productions, Inc., is in a different status; that a corporation  
17 must appear by attorney admitted to practice. And I put this  
18 case over, it was November 30, to January 11 at 10:15 a.m.,  
19 which is where we are now. It is around 10:30.

20 I advised that if Special Productions, Inc., did not  
21 file a notice of appearance by an attorney admitted to practice  
22 before this court by Friday, December 28, 2007, then I would  
23 entertain an application to hold Special Productions, Inc., in  
24 default.

25 Is there anything further about what happened on

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1 November 30?

2 MS. PAUL: Nothing further about the 30th, Judge.

3 THE COURT: Now take me forward from there.

4 MS. PAUL: December 28 came and we did not receive  
5 notice or notice of filing of a notice of appearance. We heard  
6 nothing from either Mr. Davids or anybody purporting to  
7 represent Special Productions, Inc. We filed for and obtained  
8 a certificate of default from the clerk of the court.

9 At 4:15 yesterday afternoon I received an e-mail from  
10 Mr. Davids advising -- asking whether I would consent to an  
11 adjournment of today's conference because he had retained a  
12 lawyer for himself and the corporation from a legal services  
13 plan -- and I apologize, the name escapes me at the moment and

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14 I don't have my BlackBerry, so I don't have the e-mail -- and  
15 that he wanted to ask the court for an adjournment.

16 I tried to get hold of my client at that hour and  
17 couldn't, so I e-mailed promptly back saying that, given the  
18 lateness of the request, I was unable to communicate with my  
19 client so that even if the court would agree to an adjournment  
20 at this late date, I wasn't in a position to say that I would  
21 agree and that my understanding was that no notice of  
22 appearance had been filed.

23 He had indicated in his earlier e-mail that the  
24 lawyers who were going to appear for the corporation had called  
25 chambers and advised chambers that they were going to appear

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1 but that they couldn't do anything for nine days.

2 THE COURT: I am not aware of any such call. And, in  
3 any event, it is a practice that I can fairly describe as  
4 unvarying that were such a call to be made, the response would  
5 be: Thank you for that information, please fax a letter to  
6 chambers, and the judge will act on your request. I am not  
7 aware of any such call and I am certainly not aware of any such  
8 letter.

9 My courtroom deputy is here. I will inquire whether  
10 you are aware of any such letter?

11 THE DEPUTY CLERK: I have not spoken to anyone for the  
12 defendant.

13 MS. PAUL: Perhaps needless to say, Judge, we did not  
14 receive a copy of any letter to chambers. The first advice we  
15 had of any such call was the e-mail of late yesterday.

16 THE COURT: This is what I propose to do:

17 You may proceed with your motion for a default as to  
18 the corporation. You may file your motion for default on or  
19 after January 21, 2008.

20 If a notice of appearance is filed prior to that date,  
21 then I ask you to hold off, and you can advise me what your  
22 position is with regard to the filing of the notice of  
23 appearance of the corporation and whether an application or  
24 motion for default remains appropriate, recognizing that the  
25 court has discretion to excuse the late appearance.

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1 If, on the other hand, there is no notice of  
2 appearance by the corporation by January 18, then on or after  
3 January 21 you will proceed with your default motion.

4 MS. PAUL: Understood, your Honor.

5 what about the default by Mr. Davids individually?

6 THE COURT: Tell me when he was served and when his  
7 answer was do.

8 MS. PAUL: Mr. Robinson, can you help me there?

9 MR. ROBINSON: Yes.

10 He was served -- it was about the same date. He was  
11 served around October 20th.

12 MS. PAUL: And at the conference on the 30th, your  
13 Honor, I had requested that the court set a date for him to  
14 answer, and you said that we would discuss his date to answer  
15 at this conference today.

16 THE COURT: Then in the case of Mr. Davids, his answer

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17 will be due on February 8. If no answer is filed by that date,  
18 you may move for a default, get a certificate of default, and  
19 then move for a default against Mr. David.  
20 what else?  
21 MS. PAUL: I think that's it, your Honor.  
22 I do want to note that I understand the court might  
23 otherwise be inclined to excuse the nonfiling of the notice of  
24 appearance. Mr. Davids had over -- but on behalf of the  
25 corporation Mr. David had over a month, five weeks, to obtain a  
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1 lawyer for the corporation and did not.  
2 THE COURT: No, I understand that. It's a  
3 hypothetical issue at this stage of the game.  
4 MS. PAUL: Yes, that's true, your Honor.  
5 THE COURT: I set a date by which the notice of  
6 appearance was to be filed. I would ordinarily have said to  
7 you this morning, Go ahead with your default motion.  
8 Mr. Davids reports that somebody is going to appear for the  
9 corporation.  
10 MS. PAUL: And for himself, I take it.  
11 THE COURT: Let me stick with the corporation for the  
12 moment.  
13 And if it turns out that somebody appears on behalf of  
14 the corporation, then I will decide what to do about it. But  
15 if the present circumstance continues, which is that no one  
16 appears on behalf of the corporation, we have a game plan in  
17 place.  
18 MS. PAUL: Thank you very much, your Honor.  
19 Appreciate it.  
20 THE COURT: And we also have a game plan separately as  
21 to Mr. David. Mr. David is in an entirely different posture.  
22 He is appearing pro se. He has a right to represent himself,  
23 and he did in fact appear at the last conference. So it is an  
24 entirely different circumstance.  
25 All right?  
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1 MS. PAUL: Thank you, your Honor.  
2 THE COURT: Thank you both. Good to see you both.  
3 Happy New Year to everybody. See you soon.  
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**Robinson, Chris**

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**From:** Robinson, Chris  
**Sent:** Monday, January 14, 2008 3:12 PM  
**To:** 'Michael Davids'  
**Cc:** Paul, Marcia  
**Subject:** RE: Activity in Case 1:07-cv-09237-PKC Viacom International Inc. v. Special Productions, Inc. et al Pretrial Conference - Interim  
**Attachments:** Scan001.PDF

Dear Mr. Davids,

Attached is the transcript of the hearing before Judge Castel on Friday. As I requested below, please confirm your and Special Productions, Inc.'s current address so I can send you a paper copy.

Regards,

**Christopher Robinson** | Davis Wright Tremaine LLP  
1633 Broadway, 27th Floor | New York, NY 10019  
Tel: (212) 603-6441 | Fax: (212) 489-8340  
Email: [chrisrobinson@dwt.com](mailto:chrisrobinson@dwt.com) | Website: [www.dwt.com](http://www.dwt.com)

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**From:** Robinson, Chris  
**Sent:** Friday, January 11, 2008 3:49 PM  
**To:** 'Michael Davids'  
**Cc:** Paul, Marcia  
**Subject:** FW: Activity in Case 1:07-cv-09237-PKC Viacom International Inc. v. Special Productions, Inc. et al Pretrial Conference - Interim

Dear Mr. Davids,

I am forwarding you here the record of the entry by Judge Castel in the above-captioned case following the court conference this morning. Judge Castel noted that you were not present and that no attorney had filed an appearance for Special Productions, Inc as required. We informed him of your email from 4.15 yesterday afternoon and our response to that email.

Judge Castel invited plaintiff to file a motion for default judgment against Special Productions, Inc. on or after January 21, 2008. Although Special Productions Inc. is technically in default as of today, if counsel for the corporation were to make an appearance before January 18, 2008, the court would use its discretion whether or not to grant the default motion.

As to you personally, you were ordered to answer the Complaint by February 8, 2008. If you fail to do so, plaintiff may move for default against you also.

Judge Castel told us to send you the transcript of the conference and I will send it by email to this address as soon as I receive it (probably sometime tomorrow). I also need to send you a paper copy --please confirm the address to which I should send it.

Sincerely,

2/27/2008

**Christopher Robinson** | Davis Wright Tremaine LLP  
1633 Broadway, 27th Floor | New York, NY 10019  
Tel: (212) 603-6441 | Fax: (212) 489-8340  
Email: [chrisrobinson@dwt.com](mailto:chrisrobinson@dwt.com) | Website: [www.dwt.com](http://www.dwt.com)

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**From:** NYSD\_ECF\_Pool@nysd.uscourts.gov [mailto:NYSD\_ECF\_Pool@nysd.uscourts.gov]  
**Sent:** Friday, January 11, 2008 11:52 AM  
**To:** [deadmail@nysd.uscourts.gov](mailto:deadmail@nysd.uscourts.gov)  
**Subject:** Activity in Case 1:07-cv-09237-PKC Viacom International Inc. v. Special Productions, Inc. et al Pretrial Conference - Interim

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**U.S. District Court**

**United States District Court for the Southern District of New York**

**Notice of Electronic Filing**

The following transaction was entered on 1/11/2008 at 11:51 AM EST and filed on 1/11/2008

**Case Name:** Viacom International Inc. v. Special Productions, Inc. et al

**Case Number:** 1:07-cv-9237

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**Minute Entry for proceedings held before Judge P. Kevin Castel: See transcript. Interim Pretrial Conference held on 1/11/2008, ( Motion for default judgment against Special Productions, Inc. due by 1/21/2008). Mr. Davids will file his answer on or before February 8, 2008. (Court Reporter Kristen Carannante) (ad)**

**1:07-cv-9237 Notice has been electronically mailed to:**

Marcia Beth Paul [marciapaul@dwt.com](mailto:marciapaul@dwt.com)

Christopher J. Robinson [chrisrobinson@dwt.com](mailto:chrisrobinson@dwt.com)

**1:07-cv-9237 Notice has been delivered by other means to:**

2/27/2008